

AMENDED IN ASSEMBLY APRIL 13, 2009

AMENDED IN ASSEMBLY MARCH 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 91

Introduced by Assembly Member Feuer
(Coauthors: Assembly Members Hill, Huffman, Jeffries, Jones,
Nava, Saldana, and Torlakson)
(Coauthors: Senators Cox and DeSaulnier)

January 6, 2009

An act to add and repeal Chapter 5 (commencing with Section 23700) of Division 11.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 91, as amended, Feuer. Vehicles: driving under the influence (DUI): ignition interlock device.

(1) Existing law requires a person's privilege to operate a motor vehicle to be suspended or revoked for a specified period of time if the person has been convicted of violating specified provisions prohibiting driving a motor vehicle while under the influence of an alcoholic beverage or drug or the combined influence of an alcoholic beverage and drug, or with 0.08% or more, by weight, of alcohol in his or her blood or while addicted to the use of any drug, with or without bodily injury to another. Existing law also authorizes a person whose privilege is suspended or revoked in that manner to receive a restricted driver's license if specified requirements are met, including, in some instances, the installation of an ignition interlock device on the person's vehicle.

This bill would require the department to establish a pilot program from July 1, 2010, to January 1, 2015, in the Counties of Alameda, Los

Angeles, Sacramento, and San Diego that requires, as a condition of being issued a restricted driver's license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated subsequent to a conviction for a violation of the above offenses, a person to install for a specified period of time an ignition interlock device on all vehicles he or she owns or operates ~~and complete an enhanced alcohol and drug treatment and rehabilitation program that focuses on rehabilitation, and participate in a county alcohol and drug problem assessment program.~~ The amount of time the ignition interlock device would be required to be installed would be based upon the number of convictions, as prescribed.

The bill would also set up a statutory scheme under which the department would, with regard to the installation of an ignition interlock device described above, notify the person of the ignition interlock device installation requirements established under the bill, accept notification from the installer of the ignition interlock device of attempts to remove, bypass, or tamper with the *ignition interlock* device or if the person fails 3 or more times to comply with the maintenance requirements, monitor the installation and maintenance of the ignition interlock device, and keep specified records.

The bill would also require that manufacturers and manufacturer's agents certified by the department to provide ignition interlock devices adopt a fee schedule for payment of the costs of the ignition interlock device based on the offender's ability to pay and would require the court to adopt a similar fee schedule with regard to the fees for the county alcohol and drug problem assessment program.

On or before January 1, 2014, the department would be required to report to the Legislature regarding the effectiveness of the pilot program in reducing the number of first-time driving under the influence violations and repeat offenses in those counties.

These requirements would be in addition to existing law.

(2) Because it is a crime to operate a vehicle that is not equipped with a functioning, certified ignition interlock device by a person whose driving privilege is so restricted, the bill would impose a state-mandated local program, by expanding the scope of that crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5 (commencing with Section 23700) is
2 added to Division 11.5 of the Vehicle Code, to read:

3
4 CHAPTER 5. IGNITION INTERLOCK DEVICES
5

6 23700. (a) Notwithstanding any other provision of law, the
7 Department of Motor Vehicles shall establish a pilot program in
8 the Counties of Alameda, Los Angeles, Sacramento, and San Diego
9 to reduce the number of first-time violations and repeat offenses
10 of Sections 23152 and 23153, as follows:

11 (1) The Department of Motor Vehicles, upon receipt of the
12 court's abstract conviction for a violation listed in paragraph (8),
13 shall inform the convicted person of the requirements of this
14 section, including the term for which the person is required to have
15 a certified ignition interlock device installed ~~and a requirement~~
16 ~~that the person complete an enhanced alcohol and drug treatment~~
17 ~~and rehabilitation program.~~ The records of the department shall
18 reflect the mandatory use of the device for the term required and
19 the time when the device is required to be installed by this code.

20 (2) The department shall advise the person that installation of
21 an ignition interlock device on a vehicle does not allow the person
22 to drive without a valid driver's license.

23 (3) Before a driver's license may be issued, reissued, or returned
24 to a person after a suspension or revocation of that person's driving
25 privilege that requires the installation of an ignition interlock
26 device, a person who is notified by the department pursuant to
27 paragraph (1) shall complete all of the following:

28 (A) Arrange for each vehicle owned or operated by the person
29 to be fitted with an ignition interlock device by a certified ignition
30 interlock device provider under Section 13386.

31 (B) Notify the department and provide to the department proof
32 of installation by submitting the "Verification of Installation" form
33 described in paragraph (2) of subdivision (g) of Section 13386.

34 (C) Pay the fee, determined by the department, that is sufficient
35 to cover the costs of administration of this section.

1 (4) The department shall place a restriction on the driver's
2 license record of the convicted person that states the driver is
3 restricted to driving only vehicles equipped with a certified ignition
4 interlock device.

5 (5) (A) A person who is notified by the department pursuant
6 to paragraph (1) shall arrange for each vehicle with an ignition
7 interlock device to be serviced by the installer at least once every
8 60 days in order for the installer to recalibrate and monitor the
9 operation of the device.

10 (B) The installer shall notify the department if the device is
11 removed or indicates that the person has attempted to remove,
12 bypass, or tamper with the device, or if the person fails three or
13 more times to comply with any requirement for the maintenance
14 or calibration of the ignition interlock device.

15 (6) The department shall monitor the installation and
16 maintenance of the ignition interlock device installed pursuant to
17 paragraph (1).

18 (7) A person is required to install an ignition interlock device
19 for the applicable term as a condition of being issued a restricted
20 driver's license, being reissued a driver's license, or having the
21 privilege to operate a motor vehicle reinstated subsequent to a
22 conviction for a violation or a suspension of a person's driver's
23 license, as follows:

24 (A) A person convicted of ~~Section 23152 or whose driving~~
25 ~~privileges are suspended pursuant to Section 13353.2~~ *a violation*
26 *of Section 23152* shall be required to install an ignition interlock
27 device, as follows:

28 (i) Upon a first offense, the person shall install an ignition
29 interlock device in all vehicles owned or operated by that person
30 for a mandatory term of five months that begins once that person
31 has provided proof of installation.

32 (ii) Upon a second offense, the person shall install an ignition
33 interlock device in all vehicles owned or operated by that person
34 for a mandatory term of 12 months that begins once that person
35 has provided proof of installation.

36 (iii) Upon a third offense, the person shall install an ignition
37 interlock device in all vehicles owned or operated by that person
38 for a mandatory term of 24 months that begins once that person
39 has provided proof of installation.

1 (iv) Upon a fourth offense or any subsequent violation, the
2 person shall install an ignition interlock device in all vehicles
3 owned or operated by that person for a mandatory term of 36
4 months that begins once that person has provided proof of
5 installation.

6 (B) A person convicted of *a violation of* Section 23153 shall
7 install an ignition interlock device, as follows:

8 (i) Upon a first offense, the person shall install an ignition
9 interlock device in all vehicles owned or operated by that person
10 for a mandatory term of 12 months that begins once that person
11 has provided proof of installation.

12 (ii) Upon a second offense, the person shall install an ignition
13 interlock device in all vehicles owned or operated by that person
14 for a mandatory term of 24 months that begins once that person
15 has provided proof of installation.

16 (iii) Upon a third offense, the person shall install an ignition
17 interlock device in all vehicles owned or operated by that person
18 for a mandatory term of 36 months that begins once that person
19 has provided proof of installation.

20 (iv) Upon a fourth offense or any subsequent violation, the
21 person shall install an ignition interlock device in all vehicles
22 owned or operated by that person for a mandatory term of 48
23 months that begins once that person has provided proof of
24 installation.

25 (8) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply
26 to this section.

27 (9) If a person fails to comply with any of the requirements
28 regarding ignition interlock devices, the mandatory term for which
29 the ignition interlock device is required to be installed shall be
30 reset by the department.

31 ~~(b) The pilot program shall require a person subject to this~~
32 ~~chapter to complete an enhanced alcohol and drug treatment and~~
33 ~~rehabilitation program that focuses on rehabilitation.~~

34 (b) (1) A person convicted of a violation of Section 23152 or
35 23153 shall be required to participate in a county alcohol and
36 drug problem assessment program described in Section 23646.

37 (2) The county alcohol and drug problem assessment program
38 shall include treatment and counseling recommendations.

39 (3) The court shall impose a fee of no more than one hundred
40 twenty dollars (\$120) to pay for the cost of the assessment.

1 (4) *The court shall determine the person's ability to pay for all*
2 *or a portion of the fee for the assessment based on the person's*
3 *income relative to the federal poverty level, as defined in Section*
4 *127400 of the Health and Safety Code:*

5 (A) *A person with an income at 100 percent of the federal*
6 *poverty level and below is responsible for 10 percent of the fee for*
7 *the assessment.*

8 (B) *A person with an income at 101 to 200 percent of the federal*
9 *poverty level is responsible for 25 percent of the fee for the*
10 *assessment.*

11 (C) *A person with an income at 201 to 300 percent of the federal*
12 *poverty level is responsible for 50 percent of the fee for the*
13 *assessment.*

14 (D) *All other offenders are responsible for 100 percent of the*
15 *fee for the assessment.*

16 (c) (1) *Every manufacturer and manufacturer's agent certified*
17 *by the department to provide ignition interlock devices, under*
18 *Section 13386, shall adopt the following fee schedule that provides*
19 *for the payment of the costs of the ignition interlock device by*
20 *offenders subject to this chapter in amounts commensurate with*
21 *that person's income relative to the federal poverty level, as defined*
22 *in Section 127400 of the Health and Safety Code:*

23 (A) *A person with an income at 100 percent of the federal*
24 *poverty level and below is responsible for 10 percent of the cost*
25 *of the ignition interlock device.*

26 (B) *A person with an income at 101 to 200 percent of the federal*
27 *poverty level is responsible for 25 percent of the cost of the ignition*
28 *interlock device.*

29 (C) *A person with an income at 201 to 300 percent of the federal*
30 *poverty level is responsible for 50 percent of the cost of the ignition*
31 *interlock device.*

32 (D) *All other offenders are responsible for 100 percent of the*
33 *cost of the ignition interlock device.*

34 (2) *The cost of the ignition interlock device may only be raised*
35 *annually equal to the Consumer Price Index.*

36 (3) *The offender's income may be verified by presentation of*
37 *that person's current federal income tax return or three months*
38 *of monthly income statements.*

39 (e)

1 (d) This section does not permit a person to drive without a
2 valid driver's license.

3 ~~(d)~~

4 (e) The requirements of this section are in addition to any other
5 requirements of law.

6 ~~(e)~~

7 (f) This section shall become operative on July 1, 2010.

8 23701. On or before January 1, 2014, the Department of Motor
9 Vehicles shall report to the Legislature regarding the effectiveness
10 of the pilot program authorized under this chapter in reducing the
11 number of first-time violations and repeat offenses of Sections
12 23152 and 23153 in the Counties of Alameda, Los Angeles,
13 Sacramento, and San Diego.

14 23702. This chapter shall remain in effect only until January
15 1, 2015, and as of that date is repealed, unless a later enacted
16 statute, that is enacted before January 1, 2015, deletes or extends
17 that date.

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.